

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (20-092)**

Subject

Initiative petition from Shetova Hayes regarding a proposed amendment to Chapter 558 of the Revised Statutes of Missouri. (Received June 20, 2019)

Date

July 10, 2019

Description

This proposal would amend Chapter 558 of the Revised Statutes of Missouri.

The amendment is to be voted on in November 2020.

Public comments and other input

The State Auditor's office requested input from the **Attorney General's office**, the **Department of Agriculture**, the **Department of Economic Development**, the **Department of Elementary and Secondary Education**, the **Department of Higher Education**, the **Department of Health and Senior Services**, the **Department of Insurance**, **Financial Institutions and Professional Registration**, the **Department of Mental Health**, the **Department of Natural Resources**, the **Department of Corrections**, the **Department of Labor and Industrial Relations**, the **Department of Revenue**, the **Department of Public Safety**, the **Department of Social Services**, the **Governor's office**, the **Missouri House of Representatives**, the **Department of Conservation**, the **Department of Transportation**, the **Office of Administration**, the **Office of State Courts Administrator**, the **Missouri Senate**, the **Secretary of State's office**, the **Office of the State Public Defender**, the **State Treasurer's office**, **Adair County**, **Boone County**, **Callaway County**, **Cass County**, **Clay County**, **Cole County**, **Greene County**, **Jackson County**, **Jasper County**, **St. Charles County**, **St. Louis County**, **Taney County**, the **City of Cape Girardeau**, the **City of Columbia**, the **City of Jefferson**, the **City of Joplin**, the **City of Kansas City**, the **City of Kirksville**, the **City of Mexico**, the **City of Raymore**, the **City of St. Joseph**, the **City of St. Louis**, the **City of Springfield**, the **City of Union**, the **City of Wentzville**, the **City of West Plains**, **Cape Girardeau 63 School District**, **Hannibal 60 School District**, **Malta Bend R-V School District**, **Mehlville School District**, **Wellsville-Middletown R-1 School District**, **State Technical College of Missouri**, **Metropolitan Community College**, **University of Missouri**, and **St. Louis Community College**.

Assumptions

Officials from the **Attorney General's office** indicated they expect that, to the extent that the enactment of this proposal would result in increased litigation, their office can absorb the costs associated with that increased litigation using existing resources. However, if the enactment of this proposal were to result in substantial additional litigation, their office may request additional appropriations.

Officials from the **Department of Agriculture** indicated no fiscal impact on their department.

Officials from the **Department of Economic Development** indicated no impact to their department.

Officials from the **Department of Elementary and Secondary Education** indicated this legislation does not impact their department.

Officials from the **Department of Higher Education** indicated this initiative petition has no impact on their department.

Officials from the **Department of Health and Senior Services** indicated this initiative petition has no impact on their department.

Officials from the **Department of Insurance, Financial Institutions and Professional Registration** indicated this petition, if passed, will have no cost or savings to their department.

Officials from the **Department of Mental Health** indicated this proposal creates no direct obligations or requirements to their department that would result in a fiscal impact.

Officials from the **Department of Natural Resources** indicated they would not anticipate a direct fiscal impact from this proposal.

Officials from the **Department of Corrections** indicated this initiative petition proposes changes in section 558.019, RSMo subsection 3 as follows:

Section 558.019 subsection 3, requiring a minimum prison term of eighty-five percent for a dangerous felony, is repealed to add the term, "*Any offender who has more than once been found guilty of a dangerous felony*" instead of "*Any offender who has been found guilty of a dangerous felony.*" Thus, the requirement of completion of eighty five percent of prison term before attaining seventy years is amended to be applicable to offenders who are found more than once guilty of a dangerous felony under section 556.061.

Although section 558.019, subsection 3(1) sets the minimum prison term to fifty percent for offenders who have one previous prison commitment to the department of corrections for a dangerous felony, it is assumed that the intent of the legislation is to be that offenders

with no prior incarceration for a dangerous felony will serve a minimum prison term of 50%. The subsection also sets parole hearing guidelines for such offenders. The legislation will apply to offenders serving new sentences and to offenders incarcerated and serving a minimum prison term of 85%.

Calculating how long offenders will serve if the minimum prison term (MPT) is reduced to 50% is difficult because dangerous felonies are serious offenses and the parole board has historically required offenders to serve a significant portion of the sentence before parole. If the MPT is reduced to 50%, then the time served can be from 50% to the conditional release date.

It is unknown how the Parole Board will determine the release dates for offenders serving dangerous felonies. Therefore, the fiscal impact to their department with the passage of this bill would be unknown (\$0) to an unknown cost avoidance (savings), as nothing in the petition would require them to hold offenders longer, but would rather allow for the potential early release of qualifying offenders.

Officials from the **Department of Labor and Industrial Relations** indicated this initiative petition does not appear to have a fiscal impact on their department.

Officials from the **Department of Revenue** indicated this initiative petition will not have a fiscal impact on their department.

Officials from the **Department of Public Safety-Director's Office** indicated they see no fiscal impact due to this initiative petition.

Officials from the **Department of Public Safety - Missouri State Highway Patrol** indicated no impact for this initiative petition.

Officials from the **Department of Social Services** indicated they do not anticipate a fiscal impact as a result of this initiative petition.

Officials from the **Governor's office** indicated there should be no added costs or savings to their office.

Officials from the **Missouri House of Representatives** indicated no fiscal impact to their office.

Officials from the **Department of Conservation** indicated no adverse fiscal impact to their department would be expected as a result of this proposal.

Officials from the **Department of Transportation** indicated this initiative petition is projected to have no fiscal impact on their office/Missouri Highways and Transportation Commission.

Officials from the **Office of Administration** indicated this proposal amends Section 558.019 by modifying minimum prison terms for offenders found guilty of a dangerous felony. Current law provides that offenders who have been found guilty of a dangerous felony shall be required to serve a minimum prison term of 85% of the sentence or until the offender attains 70 years of age and has served at least 40% of the sentence imposed.

This proposal modifies current law to require that offenders who have been more than once found guilty of a dangerous felony shall be required to serve a minimum prison term of 85% of the sentence or until the offender attains 70 years of age and has served at least 40% of the sentence imposed. Offenders who have one previous prison commitment for a dangerous felony shall be required to serve a minimum prison term of 50% of the sentence or until the offender attains 70 years of age and has served at least 40% of the sentence imposed. A parole hearing for such offenders shall be scheduled every two years and parole shall be granted if the offender has maintained the best possible institutional score for the year prior to their parole hearing. The first-time conviction exception shall be applicable to dangerous felonies, except for rape and child molestation, occurring on or after August 28, 1994.

This should not impact their office.

Officials from the **Office of State Courts Administrator** indicated there is no fiscal impact on the courts.

Officials from the **Missouri Senate** indicated they anticipate no fiscal impact.

Officials from the **Secretary of State's office** indicated unless a special election is called for the purpose, Referendums are submitted to the people at the next general election. Article III section 52(b) of the Missouri Constitution authorizes the general assembly to order a special election for measures referred to the people. If a special election is called to submit a Referendum to a vote of the people, Section 115.063.2 RSMo. requires the state to pay the costs. The cost of the special election has been estimated to be \$7.8 million based on the cost of the 2016 Presidential Preference Primary.

Their office is required to pay for publishing in local newspapers the full text of each statewide ballot measure as directed by Article XII, Section 2(b) of the Missouri Constitution and Section 116.230-116.290, RSMo. Funding for this item is adjusted each year depending upon the election cycle. A new decision item is requested in odd numbered fiscal years and the amount requested is dependent upon the estimated number of ballot measures that will be approved by the General Assembly and the initiative petitions certified for the ballot. In fiscal year (FY) 2014, the General Assembly changed the appropriation so that it was no longer an estimated appropriation.

In FY19, over \$5.8 million was spent to publish the full text of the measures for the August and November elections. They estimate \$65,000 per page for the costs of publications based on the actual cost incurred for the one referendum that was on the August 2018 ballot.

Their office will continue to assume, for the purposes of this fiscal note, that it should have the full appropriation authority it needs to meet the publishing requirements. Because these requirements are mandatory, they reserve the right to request funding to meet the cost of their publishing requirements if the Governor and the General Assembly again change the amount or continue to not designate it as an estimated appropriation.

Officials from the **Office of the State Public Defender** indicated this initiative petition will not have a significant impact on their office.

Officials from the **State Treasurer's office** indicated no fiscal impact to their office.

Officials from **Greene County** indicated there are no estimated costs or savings to report from their county for this initiative petition.

Officials from the **City of Kansas City** indicated this has no fiscal impact on their city.

Officials from **Wellsville-Middletown R-1 School District** indicated they see no specific fiscal impact of this petition on their school.

The State Auditor's office did not receive a response from **Adair County, Boone County, Callaway County, Cass County, Clay County, Cole County, Jackson County, Jasper County, St. Charles County, St. Louis County, Taney County, the City of Cape Girardeau, the City of Columbia, the City of Jefferson, the City of Joplin, the City of Kirksville, the City of Mexico, the City of Raymore, the City of St. Joseph, the City of St. Louis, the City of Springfield, the City of Union, the City of Wentzville, the City of West Plains, Cape Girardeau 63 School District, Hannibal 60 School District, Malta Bend R-V School District, Mehlville School District, State Technical College of Missouri, Metropolitan Community College, University of Missouri, and St. Louis Community College.**

Fiscal Note Summary

State governmental entities estimate no additional costs, and possible savings of an unknown amount. Local governmental entities expect no costs or savings.